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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,038	10/21/2003	Peter G. Webb	10990641-2	7535

7590 03/02/2007  
AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P. O. Box 7599  
Loveland, CO 80537-0599

EXAMINER
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LIN, JERRY

ART UNIT	PAPER NUMBER
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1631

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/02/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/691,038

Applicant(s)

WEBB ET AL.

Examiner

Jerry Lin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 21-39 in the reply filed on December 12, 2006 is acknowledged. The traversal is on the ground(s) that the groups may be searched together without serious burden on the Examiner. This argument is found persuasive and the groups have been rejoined.

### ***Status of the Claims***

Claims 21-45 are under examination.

### ***Claim Rejections - 35 USC § 112, 2<sup>nd</sup> Paragraph***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 22-24 and 33-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Instant claim 22 and 24 is unclear because it recites the term "the drive pattern." It is unclear if this term refers to the target or corrected drive pattern or is intended to describe some other operation. There is insufficient antecedent basis for this limitation in the claim.

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4. Claim 33 recites the limitation "the accuracy" in line 3. There is insufficient antecedent basis for this limitation in the claim. This term was not mentioned previously in the instant claim nor in the claims from which it depends.

5. Claim 34 recites the limitation "the accuracy" in line 2. There is insufficient antecedent basis for this limitation in the claim. This term was not mentioned previously in the instant claim nor in the claims from which it depends.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 21-45 are rejected under 35 U.S.C. 102(a) as being anticipated by Blanchard (WO 98/41531).

The instant claims are drawn to an apparatus for fabricating a addressable array of biopolymer probes which includes a sensor that senses errors between the target array pattern and the actually array pattern deposited and a processor which uses the error to produce a corrected drive pattern that reduces the discrepancy between the target and actually array patterns.

Regarding claims 21, 25- 27, 29, 30, 37, 39, and 40-45 Blanchard teaches an apparatus for fabricating an addressable array of biopolymer probes on a substrate

(page 6, lines 10-14) which includes a sensor which senses at least one operating parameter for an error (pages 62-64; pages 75-76) producing a discrepancy between the target array pattern and actual pattern deposited (page 7, lines 10-30) and a processor (page 7, lines 27-30) which corrects the drive pattern to reduce the discrepancy between the target and actual array patterns (page 77, lines 5-25). Furthermore, Blanchard teaches that their method is automated (or a computer program product) with position control for deposition (page 7, lines 10-30) which indicates a memory with a target drive pattern or corrected drive pattern.

Regarding claims 22- 24, 28, 31- 36, and 38, Blanchard teaches an apparatus with a dispensing head and a transport system (page 56, line 24-page 57, line 24), wherein the drive pattern controls the operation of the transport system (page 57, lines 3-5), and the operating parameter is the position of the substrate or dispensing head and the sensor views the substrate or dispensing head (pages 62-64; pages 75-76).

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Lin whose telephone number is (571) 272-2561. The examiner can normally be reached on 10:00-6:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Irem Yucel can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL

MICHAEL BORIN, PH.D  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Michael Borin', is written below the printed name and title.